

STREET VACATION 7/9/56
LAGUNA DR. BETWEEN WOODDALE AVE. AND
E. LINE OF CRESTON HILLS ADDITION

DORSEY, OWEN, MARQUART, WINDHORST & WEST

JAMES E. DORSEY (1889-1959)

DAVID E. BRONSON
KENNETH M. OWEN
DONALD WEST
WALDO F. MARQUART
JOHN W. WINDHORST
HENRY HALLADAY
JULE M. HANNAFORD
ARTHUR B. WHITNEY
JOHN G. DORSEY
RUSSELL W. LINDQUIST
DAVID R. BRINK
HORACE E. HITCH
VIRGIL H. HILL
ROBERT V. TARBOX
DEFOREST SPENCER
ROBERT J. JOHNSON
MAYNARD B. HASSELOQUIST
PETER DORSEY
GEORGE F. FLANNERY
CURTIS L. ROY
ARTHUR E. WEISBERG
DUANE E. JOSEPH
FREDERICK E. LANGE
JOHN W. JONES
JAMES B. VESSEY
WILLIAM A. WHITLOCK
CHARLES O. HOWARD

EDWARD J. SCHWARTZBAUER
THOMAS M. BROWN
CORNELIUS D. MAHONEY
THOMAS S. ERICKSON
MICHAEL E. BRESS
PAUL G. ZERBY
RAYMOND A. REISTER
JOHN J. TAYLOR
BERNARD G. HEINZEN
WILLIAM J. HEMPEL
JOHN S. HIBBS
ROBERT O. FLOTTEN
MORTON L. SHAPIRO
JAMES F. MECKER
JOHN D. LEVINE
ROBERT J. STRUYK
MICHAEL A. OLSON
LARRY W. JOHNSON
THOMAS S. HAY
CURTIS D. FORSLUND
G. LARRY GRIFFITH
CRAIG A. BECK
DAVID L. MCCUSKEY
THOMAS O. MOE
JAMES H. OHAGAN
JOHN M. MASON

LAW OFFICES

2400 FIRST NATIONAL BANK BUILDING

MINNEAPOLIS, MINN. 55402

TELEPHONE
332-3351
AREA CODE 612

OF COUNSEL
LEAVITT R. BARKER
LELAND W. SCOTT
HUGH H. BARBER

CABLE ADDRESS:
DOROW

January 31, 1967

Mr. Warren C. Hyde, Manager
Village of Edina
4801 West 50th Street
Edina, Minnesota 55424

Re: Laguna Drive Vacation

Dear Mr. Hyde:

We have examined the legal position of the Village of Edina in the dispute which has developed between Mr. R. T. Crist and Mrs. Loren W. Halings over Laguna Drive.

By resolution of the Village Council on July 9, 1956, that portion of Laguna Drive lying between Wooddale Avenue and the east line of Creston Hills Addition was purportedly vacated. The vacated portion of Laguna Drive was bordered on the north by land dedicated by plat to the Village for park purposes. The south side of the drive was bordered by land belonging to the Halings. On the east the Drive ends at property now belonging to R. T. Crist.

Subsequent to the resolution vacating the Drive, the Village Director of Parks and Recreation, by letter, granted an easement to Mr. Crist over the north one-half of the vacated Drive. The Halings objected to the easement and a dispute developed between the Halings and Mr. Crist.

In order to clarify the position of the Village in this dispute, I had prepared a legal memorandum, a copy of which is enclosed. As you can see, the memorandum reaches the conclusion that the Village should not have granted the easement to Mr. Crist.

Mr. Warren C. Hyde

Page 2

January 31, 1967

After the memorandum was prepared, further investigation revealed that the only signature on the petition for vacation was that of Mr. Haling. Minnesota Statutes, Section 412.851 requires that a village resolution vacating a street must be based on a petition of "a majority of the owners of land abutting on the street...." As the accompanying memorandum points out, the Village owns only an easement for park purposes on the land north of Laguna Drive; it is not the owner of the fee. As the holder of only an easement the Village is not an "owner" within the meaning of Minn. Stat. § 412.851 for purposes of determining what is a majority of the abutting owners who must sign a petition for vacation of a street. See Opinion of the Attorney General 396-G-16, October 22, 1958. The owner of the underlying fee to the park land could join in a petition to vacate the street; the Village could not.

As of July 9, 1956, there were three owners of the land abutting that part of Laguna Drive east of Wooddale Avenue: (1) the Halings, (2) R. T. Crist or his predecessors in title, and (3) the dedicator of the plat or his successors in title. Any valid petition for vacation of the street would have had to be signed by at least two of these.

It is therefore my opinion that the resolution of the Village Council of July 9, 1956, purporting to vacate part of Laguna Drive was invalid and of no effect.

If the Village still wishes to vacate the Drive, it must have the signatures of any two of the three abutting owners of the fee on a petition to vacate.

According to records in the office of the Registrar of Titles of Hennepin County, Creston Hills Addition, which includes the affected part of Laguna Drive, was platted in 1947 by a Judson L. and Emma J. Crouse. The Crouses, or, if they are no longer living, their heirs or devisees, must join with Mrs. Haling in a petition for vacation. In view of the dispute Mr. Crist would presumably be unwilling to join in a petition for vacation.

Mr. Warren C. Hyde
Page 3

January 31, 1967

The League of Minnesota Municipalities has indicated that it will recommend a change in Minnesota Statutes, § 412.851 to permit a municipality, on its initiative, to schedule vacation proceedings. In view of this, if the Village wishes to vacate Laguna Drive it may be well to wait to see if this law is enacted before proceeding further.

Very truly yours,



William A. Whitlock

WAW:mc

Enc.

cc: Mr. Ken Rosland
Mrs. Florence Hallberg

MEMORANDUM

Re: Effect of Vacation of Street Abutting Park Land.

In 1956 the Village of Edina vacated that part of Laguna Drive located east of Wooddale Avenue. The area north of the vacated portion contains a small strip of land and a lake. By the original plat dedication, recorded in 1947, this area north of the Drive is designated as a park. The land south of the vacated portion now belongs to a Mrs. Haling. On the east, the vacated portion of the Drive terminates at the rear of property now belonging to an R. T. Crist.

In 1961, the Edina director of parks agreed to let Crist have an easement over the north half of the vacated drive for access to the rear of Crist's lot. In turn, Crist was to permit people using the park to cross over his land to reach a point out into the lake. This agreement is in the form of a letter by Clifton French to Crist. In the letter, French requests a letter from Crist confirming the agreement. There is no letter from Crist in our files. Crist has been using the north half of the drive and has been permitting people to cross his land to get to the point.

There is an opinion letter in the file, written by Donald Herbert to the Village Clerk in November, 1960. The letter indicates that at that time the Halings were objecting to the easement given to Crist on the ground that, upon vacation, the fee to the entire street passed to them. The opinion letter states, in effect, that the law is very uncertain, but that it is probable that the Halings have title only to the south half of the street and that the north half passes to the Village for park purposes.

Mrs. Haling now takes the position that the Village cannot grant an easement to Crist over the north half of the vacated street because the Village is required to maintain that land for park purposes. The questions presented are who has title to this north half of the vacated street and what restrictions, if any, there are on the title.

There are two basic rules involved here. The first rule is that when property abutting on a street is conveyed by reference to a plat designation the presumption is that the conveyance includes the abutting street up to the center line, subject to the easement for street purposes. Of course, when the street is vacated the adjoining owners take free of the easement.

The other rule is that when land is dedicated for park purposes by means of a plat, the fee remains in the dedicator and those who take under him, and the municipality has only an interest in the nature of an easement to use the land for park purposes. This is somewhat contrary to Herbert's opinion letter which states that the location of the fee is uncertain, but the rule stated herein was made certain by Etyler v. Mondale, 266 Minn. 353, 123 N.W. 2d 603 (1963).

In the present situation we have a vacated street, on one side of which is a fee owner and on the other side of which is land dedicated for park purposes. The state of the title to the north half of the street could therefore be in any one of three possible conditions: (1) Mrs. Haling has a fee title to this strip; (2) the dedicators of the plat and those who take under them have fee title; or (3) the dedicators and those who take under them have fee title subject to an easement to the Village for park purposes.

I was unable to find any case, either in Minnesota or elsewhere, which discusses the effect of vacating a street which adjoins park property. Herbert's opinion letter states that "after quite extensive research" he was also unable to find such a case.

The only argument in favor of Mrs. Haling's claim to the entire vacated street would have to be based upon several cases which have held that when a street with navigable waters on one side of it is vacated, the fee title of the land owners on the other side extends across the entire width of the street. See Burkhart v. City of Fort Lauderdale, 156 So. 2d 752 (Fla. App. 1963); 10 McQuillan, Municipal Corporations §30.33. By analogy, Mrs. Haling could claim that a park is somewhat like a body of water. Since in both cases there may be no true fee owner on one side to claim half the street, she should be entitled to all of it.

Normally, however, an adjoining landowner is entitled to only half a vacated street. And here there are fee owners on both sides of the street, so Mrs. Haling really has no basis for her claim to all of it.

But if this view is followed to its logical conclusion it means that the original dedicator or his heirs or devisees now have unencumbered title to just the narrow strip of land that constitutes the north half of the vacated street.

In fact, the normal presumption that property holders have fee title to the center of an adjoining street appears to have been devised to avoid the problem of creating random strips of land with ownership in different hands from that of adjoining property. See White v. Jefferson, 110 Minn. 276, 124 N.W. 373 (1910).

For example, A, by plat dedication, creates two lots numbered 1 and 2, with a street between them. A then deeds lot 1 to B and lot 2 to C, in deeds which describe the land by plat designation. (E.g., "I convey to B lot 1 of Blackacre, according to the plat thereof on file with the register of deeds.") The presumption is that B owns not only lot 1 but also half the adjoining street. If the presumption were otherwise and the street were vacated, A would end up owning the economically useless strip of land that had formerly been a street.

If the reason for the rule is applied to the present situation, then the dedicator owns the fee to the north half of the vacated street, just as he owns the fee to the adjoining park land. However, the north half of the vacated street should also be subject to the park dedication of the adjoining land. In other words, the argument is that when land is subject to a certain servitude (such as an easement for park purposes), upon vacation of an adjoining street the servitude should also apply to the adjacent half of the street. There is no authority for this, but there is also no authority for any other result, and this rule seems the most reasonable.

In any event, it appears that the Village should not have granted an easement to Crist. If Mrs. Haling owns the entire vacated street, then, of course, the Village has no right to grant an easement on it. Similarly, if the north half of the street belongs to the original dedicator free of any easement for park purposes, then likewise the Village has no right to grant an easement.

The situation is less clear if title to the north half of the street lies in the dedicator but subject to the easement to the Village for park purposes. The argument here would be that the Village is under a duty to use the land for park purposes and that the easement granted to Crist is inconsistent with these purposes. There are numerous cases that have disapproved the use of park land for private purposes. See McQuillan § 28.52. Moreover Mrs. Haling probably has an enforceable right to have the land maintained for park purposes. See Kray v. Muggli, 84 Minn. 90, 86 N.W. 882 (1901) (dictum), which Mrs. Haling has cited. Crist can, however, argue that his use of the land is de minimus, and in fact is consistent with park purposes because as a quid pro quo the users of the park can get to the point.

It may well be that French had no authority to grant the easement. This would depend upon the authority granted him by the council. If he was not given any authority to grant an easement (or some broader grant of authority that could reasonably be construed to include the power to grant an easement), then the contract with Crist is in no way binding on the Village. In general, the doctrines of apparent authority or estoppel cannot be invoked against a municipality in this sort of situation, because the actual authority of officers is a matter of public record. See City of Fergus Falls v. Whitlock, 247 Minn. 347, 77 N.W. 2d 194 (1956).

Conclusion. The north half of the road belongs either to (1) Mrs. Haling in fee, free of any encumbrance; (2) the dedicator of the plat, free of any encumbrance; or (3) the dedicator of the plat, subject to an

■asement to the Village for park purposes. There is insufficient authority to determine which of these three answers is the correct one, although, as argued above, number (3) seems to be the most reasonable solution.

No matter which answer is correct, it appears that whatever easement may have been granted to Crist should be withdrawn. This is obvious under answers (1) and (2) because then the Village has no claim whatsoever to the property.

Under number (3) the easement is improper either because it is inconsistent with park purposes or because French had no authority to grant it.

C.J.H.
12/9/66

ORDER TO SHOW CAUSE
IN PROCEEDINGS SUBSEQUENT TO
INITIAL REGISTRATION OF LAND
A-15435
STATE OF MINNESOTA,)

County of Hennepin.)

DISTRICT COURT.

FOURTH JUDICIAL DISTRICT.

In the Matter of the Petition of
RICHARD T. CRIST AND MAR-
GARET ALICE CRIST in Relation
to Land Described in Certificate
of Title No. 309041 as follows:

Lot 18, Block 1, Southdale
Third Addition, Hennepin Coun-
ty, Minnesota.

TO: Village of Edina, State of Min-
nesota, Celia M. Haling, The
Farmers and Mechanics Savings
Bank of Minneapolis, Susan
Brown, Unknown Heirs of Ken-
neth Crouse, Deceased, Unknown
Heirs of Judson L. Crouse, De-
ceased, Ivamae Lee.

Upon receiving and filing the Re-
port of the Examiner of Titles in
the above entitled matter,

IT IS ORDERED, That you, and
all persons interested, appear before
this Court on the 2nd day of April,
1968, at 2:00 P. M. in Room 10-A
of the Hennepin County Court House
in said County, and then, or as soon
thereafter as said matter can be
heard, show cause, if any there be,
why this Court should not enter an
Order as follows:

(1) That the Registrar of Titles
show by memorial upon Certificate
of Title No. 113050½ that the follow-
ing portion of vacated Laguna Drive
is added to the description therein:

That part of vacated Laguna
Drive lying Northerly of the cen-
ter line thereof and Easterly of
a line drawn parallel with and
30 feet Easterly of the Northerly
continuation of the most North-
erly curve of the center line of
Wooddale Avenue as dedicated
in "CRESTON HILLS, HENNEPIN
COUNTY, MINNESOTA"

upon the refiling with him of reso-
lution of vacation Document No.
504419, Files of the Registrar of
Titles and that upon the issuance of
any future Certificate of Title he
carry forward this added description
into the body of said Certificate and
that he omit the memorial of said
Document No. 504419 and the me-
morial of this Order;

(2) That he cancel said Certificate
of Title No. 113050½ and enter a
new Certificate for the Parks and va-
cated Laguna Drive therein described
to Ivamae Lee, as Successor Trustee
under the Last Will and Testament
of Judson L. Crouse, Deceased;

(3) That he receive for registration
a quit claim deed made by Ivamae
Lee, Trustee under the Last Will and
Testament of Judson L. Crouse, and
individually and with William Lee,
her husband, in favor of Village of
Edina, for a portion of vacated La-
guna Drive, lying North of the center
line thereof, which deed also grants
a driveway easement over said por-
tion of vacated Laguna Drive to
Richard T. Crist and Margaret Alice
Crist, husband and wife, as joint
tenants, for the benefit of Lot 18,
Block 1, Southdale Third Addition,
and that pursuant to said deed, issue
a Certificate of Title to the Village
of Edina for that part of vacated
Laguna described at Paragraph "1"
above, subject to a driveway ease-
ment over said portion of vacated
Laguna Drive for the benefit of Lot
18, Block 1, Southdale Third Addi-
tion, created by deed Doc. No. _____
(insert document number assigned to
said quit claim deed);

(4) That he show by memorial
upon Certificate of Title No. 309041
that the premises therein described
include a driveway easement over
that part of vacated Laguna Drive
lying Northerly of the center line
thereof and Easterly of a line drawn
parallel with and 30 feet Easterly of
the Northerly continuation of the
most Northerly curve of the center
line of Wooddale Avenue as dedicated
in the plat of "CRESTON HILLS,
HENNEPIN COUNTY, MINNESOTA",
as created by deed Doc. No. _____
(here insert the document number
assigned to the above quit claim
deed);

IT IS FURTHER ORDERED, That
this Order be served at least 5 days
prior to such hearing upon the above
named parties residing in this State
in the manner provided by law for
the service of summons in a civil
action; it shall be served at least 10
days prior to such hearing upon any
of the above named non-residents by
sending this Order by mail to such
non-resident at his post-office ad-
dress as stated in the Certificate or
in any registered instrument on file
with the Registrar, or if his address
is not so stated, then to his last
known address by registered or cer-
tified mail, return receipt; it shall
be served by 2 weeks published no-
tice upon any party whose address is
unknown.

Dated: March 6, 1968.

/s/ CRANE WINTON,
Judge.

Attendance is not required at said
time except to object to the entry of
the above described Order.

Approved by:

MARSHALL K. SIGFORD,
Examiner.

THOMPSON, HESSIAN,

FLETCHER & MCKASY,

By FREMONT FLETCHER, Attorneys,
600 Midland Bank Building,
Minneapolis, Minn. 55401. 10124-96

IN PROCEEDINGS SUBSEQUENT TO
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in the plat of "CRESTON HILLS,
HENNEPIN COUNTY, MINNESOTA",
as created by deed Doc. No. _____

(here insert the document number
assigned to the above quit claim
deed);

IT IS FURTHER ORDERED, That
this Order be served at least 5 days
prior to such hearing upon the above
named parties residing in this State
in the manner provided by law for
the service of summons in a civil
action; it shall be served at least 10
days prior to such hearing upon any
of the above named non-residents by
sending this Order by mail to such
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dress as stated in the Certificate or
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is not so stated, then to his last
known address by registered or cer-
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tice upon any party whose address is
unknown.

Dated: March 6, 1968.

/s/ CRANE WINTON,

Judge.

Attendance is not required at said
time except to object to the entry of
the above described Order.

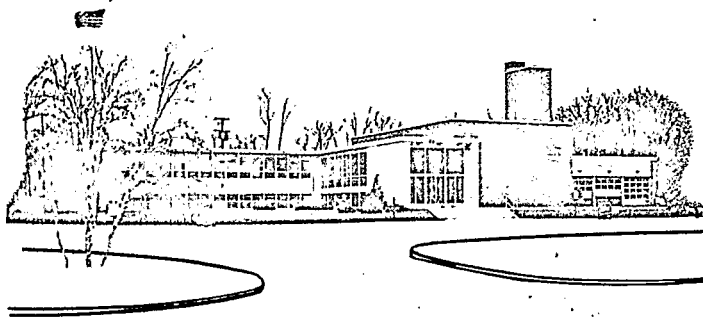
Approved by:
MARSHALL K. SIGFORD,

Examiner.

THOMPSON, BESSIAN,

FLETCHER & MCKASY,

By FREMONT FLETCHER, Attorneys,
600 Midland Bank Building,
Minneapolis, Minn. 55401. 10124-96



Village of Edina

4801 WEST FIFTIETH STREET • EDINA 24, MINNESOTA

WALNUT 7-8861

August 30, 1961

Mr. R. T. Crist
6716 Point Drive
Edina 24, Minnesota

Dear Mr. Crist:

Here below I have tried to put in as few words as possible my understanding of the basic points of our discussion and the agreement we reached.

1. The portion of Laguna Drive from Wooddale Avenue east remains vacated as per action by the Village Council dated July 9, 1956.
2. Under this vacation action the south one-half of the vacated portion of Laguna Drive reverted to Mr. Haling, and the north one-half to Village ownership. The Halings wish to claim the portion going to them, and it is their intention to make it an integral part of their front yard.
3. Our general aim for the area which has reverted to Village ownership and has become an integral part of the park is to keep it park-like. However, your request for automobile access across park property to get to the rear of your lot we are willing to grant providing you are willing to grant to the Village easement for pedestrian and park service vehicle traffic over that portion of your lot to get out on the point of land which extends on to the lake.

Your access will start at-and-across Haling's turn-off from Wooddale (Mr. Haling has agreed to this) and thence over park property to your west lot line. It is our intention to keep this path of traffic open to you in fair weather conditions.

I hope this states accurately what we agreed to and would appreciate your letter confirming same.

Sincerely yours,

Clifton E. French

Clifton E. French
Director Parks and Recreation

CEF:mem

THOMPSON, HESSIAN, FLETCHER & MCKASY

LAWYERS

600 MIDLAND BANK BUILDING
MINNEAPOLIS, MINNESOTA 55401

PAUL J. THOMPSON (1875-1950)
MAURICE A. HESSIAN, SR. (1888-1956)
ABBOTT L. FLETCHER
JOHN J. MCKASY
MAURICE A. HESSIAN
FREMONT C. FLETCHER
DONALD L. BUSH
JOHN O. BRUNELLE
JOHN F. STONE

November 16, 1967

PHONE 335-0911
AREA CODE 612

Mrs. Florence B. Hallberg
Village Clerk
Village of Edina
4801 West 50th Street
Edina, Minnesota 55424

Re: Laguna Drive matter

Dear Mrs. Hallberg:

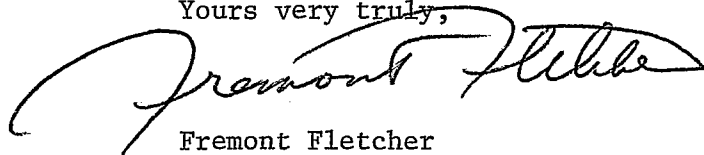
The above matter was on the Council agenda for Monday, November 6, and at that time was deferred for two weeks at the request of Mr. Crist.

This matter has some rather complicated legal problems in connection with it and I would very much appreciate a further continuance for an additional two weeks, or longer, if it would be satisfactory with the Council.

I have discussed this with Mr. Whitlock and I believe that such a continuance would be satisfactory with him. This matter has extended over a long period of time and it seems to me that a little more time at the present would not be prejudicial, and in fact might be very beneficial, to all concerned if a final legally acceptable solution can be reached.

In the event that a continuance is not acceptable for any reason, would you please advise me prior to Monday evening.

Yours very truly,



Fremont Fletcher

FF:ch

cc: Mr. William Whitlock
Mr. Richard T. Crist
Mr. Charles A. Cox

DORSEY, OWEN, MARQUART, WINDHORST & WEST
FIRST NATIONAL BANK BUILDING
MINNEAPOLIS

January 31, 1957

Mr. Vernon C. Hyde, Manager
Village of Eden
4801 East 50th Street
Eden, Minnesota 55424

Re: Laguna Drive Vacation

Dear Mr. Hyde:

We have examined the legal position of the Village of Eden in the dispute which has developed between Mr. R. T. Grist and Mrs. Aaron W. Halling over Laguna Drive.

By resolution of the Village Council on July 9, 1956, that portion of Laguna Drive lying between Windhole Avenue and the east line of Griston Hills Addition was purportedly vacated. The vacated portion of Laguna Drive was bordered on the north by land dedicated by plat to the Village for park purposes. The south side of the Drive was bordered by land belonging to the Hallings. On the east the Drive ends at property now belonging to R. T. Grist.

Subsequent to the resolution vacating the Drive, the Village Director of Parks and Recreation, by letter, granted an easement to Mr. Grist over the north one-half of the vacated Drive. The Hallings objected to the easement and a dispute developed between the Hallings and Mr. Grist.

In order to clarify the position of the Village in this dispute, I had prepared a legal memorandum, a copy of which is enclosed. As you can see, the memorandum reaches the conclusion that the Village should not have granted the easement to Mr. Grist.

C
O
P
Y

January 31, 1957

After the memorandum was prepared, further investigation revealed that the only signatures on the petition for vacation was that of Mr. Helling. Minnesota Statutes, Section 412.851 requires that a village resolution vacating a street must be based on a petition of "a majority of the owners of land abutting on the street...." As the accompanying memorandum points out, the Village owns only an easement for park purposes on the land north of Laguna Drive; it is not the owner of the fee. As the holder of only an easement the Village is not an "owner" within the meaning of Minn. Stat. § 412.851. For purposes of determining what is a majority of the abutting owners who must sign a petition for vacation of a street. See Opinion of the Attorney General 355-8-16, October 22, 1956. The owner of the underlying fee to the park land could join in a petition to vacate the street; the Village could not.

As of July 9, 1956, there were three owners of the land abutting that part of Laguna Drive east of Nordala Avenue: (1) the Helling, (2) R. E. Galt or his predecessors in title, and (3) the holder of the plat or his successors in title. Any valid petition for vacation of the street would have had to be signed by at least two of these.

It is therefore my opinion that the resolution of the Village Council of July 9, 1956, purporting to vacate part of Laguna Drive was invalid and of no effect.

If the Village still wishes to vacate the Drive, it must have the signatures of any two of the three abutting owners of the fee on a petition to vacate.

According to records in the office of the Registrar of Titles of Hennepin County, Grapewill Addition, which includes the affected part of Laguna Drive, was platted in 1947 by a John L. and Emma J. Green. The Greens, or, if they are no longer living, their heirs or devisees, must join with Mr. Helling in a petition for vacation. In view of the dispute Mr. Galt would presumably be unwilling to join in a petition for vacation.

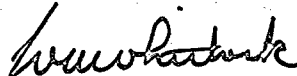
COPY

Mr. Vernon C. Hyde
Page 3

January 31, 1937

The League of Minnesota Municipalities has indicated that it will recommend a change in Minnesota Statutes, § 132.851 to permit a municipality, on its initiative, to participate in vacation proceedings. In view of this, is the Village willing to vacate Laguna Drive it may be well to wait to see if this law is enacted before proceeding further.

Very truly yours,



WILLIAM A. HADDOCK

WVH:ms

Enc.

cc: Mr. Dan Garland
Mr. Florence Haddock ✓

C
O
P
Y

MEMORANDUM

Re: Effect of Vacation of Street Abutting Park Land.

In 1936 the Village of Elgin vacated that part of Logan Drive located east of Wendale Avenue. The area north of the vacated portion contains a small strip of land and a lake. By the original plat dedication, recorded in 1947, this area north of the Drive is designated as a park. The land south of the vacated portion now belongs to a Mrs. Helling. On the east, the vacated portion of the Drive terminates at the rear of property now belonging to an H. T. Crist.

In 1951, the Elgin director of parks agreed to let Crist have an easement over the north half of the vacated Drive for access to the rear of Crist's lot. In turn, Crist was to permit people using the park to cross over his land to reach a point out into the lake. This agreement is in the form of a letter by Elbert French to Crist. In the letter, French requests a letter from Crist confirming the agreement. There is no letter from Crist in our files. Crist has been using the north half of the drive and has been permitting people to cross his land to get to the point.

There is an opinion letter in the file, written by Harold Heston to the Village Clerk in November, 1960. The letter indicates that at that time the Helling were objecting to the easement given to Crist on the ground that, upon vacation, the fee to the entire street passed to them. The opinion letter states, in effect, that the law is very uncertain, but that it is probable that the Helling have title only to the south half of the street and that the north half passes to the Village for park purposes.

Mrs. Halling now takes the position that the Village cannot grant an easement to Grist over the north half of the vacated street because the Village is required to maintain that land for park purposes. The questions presented are who has title to this north half of the vacated street and what restrictions, if any, there are on the title.

There are two basic rules involved here. The first rule is that when property abutting on a street is conveyed by reference to a plat designating the parcel, the conveyance includes the abutting street up to the center line, subject to the easement for street purposes. Of course, when the street is vacated the adjoining owner takes free of the easement.

The other rule is that when land is dedicated for park purposes by means of a plat, the fee remains in the donor and those who take under him, and the municipality has only an interest in the nature of an easement to use the land for park purposes. This is somewhat contrary to Justice's opinion in the latter which states that the location of the fee is uncertain, but the rule stated herein was made certain by Boyer v. Buffalo, 245 Minn. 553, 123 N.W. 2d 603 (1953).

In the present situation we have a vacated street, on one side of which is a fee owner and on the other side of which is land dedicated for park purposes. The state of the title to the north half of the street could therefore be in any one of three possible conditions: (1) Mrs. Halling has a fee title to this strip; (2) the donor of the plat and those who take under them have fee title; or (3) the donor and those who take under them have fee title subject to an easement to the Village for park purposes.

I was unable to find any case, either in Minnesota or elsewhere, which discusses the effect of vacating a street which adjoins part property. Harbert's opinion letter states that "after quite extensive research" he was also unable to find such a case.

The only argument in favor of Mrs. Haling's claim to the entire vacated street would have to be based upon several cases which have held that when a street with navigable waters on one side of it is vacated, the fee title of the land owner on the other side extends across the entire width of the street. See Harbert v. City of East Portland, 156 So. 2d 752 (Min. App. 1963); 10 McMillan, Municipal Government §50.33. By analogy, Mrs. Haling could claim that a park is somewhat like a body of water. Since in both cases there may be no true fee owner on one side to claim half the street, she should be entitled to all of it.

Normally, however, an adjoining landowner is entitled to only half a vacated street. And here there are fee owners on both sides of the street, so Mrs. Haling really has no basis for her claim to all of it.

But if this view is followed to its logical conclusion it means that the original dedicant or his heirs or devisees may have remembered title to just the narrow strip of land that constituted the north half of the vacated street.

In fact, the normal presumption that property holders have fee title to the center of an adjoining street appears to have been devised to avoid the problem of creating sudden strips of land with ownership in different hands from that of adjoining property. See Wells v. Johnson, 130 Minn. 276, 154 N.W. 573 (1916).

For example, A, by plat dedication, creates two lots numbered 1 and 2, with a street between them. A then deeds lot 1 to B and lot 2 to C, in deeds which describe the land by plat designation. (E.g., "I convey to B lot 1 of Blacemore, according to the plat thereof on file with the register of deeds.") The presumption is that B owns not only lot 1 but also half the adjoining street. If the presumption were otherwise and the street were vacated, A would end up owning the commercially useless strip of land that had formerly been a street.

If the reason for the rule is applied to the present situation, then the dedicater must give the south half of the vacated street, just as he gave the south half of the adjoining park land. However, the north half of the vacated street should also be subject to the park dedication of the adjoining land. In other words, the argument is that when land is subject to a certain servitude (such as an easement for park purposes), upon vacation of an adjoining street the servitude should also apply to the adjacent half of the street. There is no authority for this, but there is also no authority for any other result, and this rule seems the most reasonable.

In any event, it appears that the Village should not have granted an easement to Grish. If Mrs. Billing owns the entire vacated street, then, of course, the Village has no right to grant an easement on it. Similarly, if the north half of the street belongs to the original dedicater free of any easement for park purposes, then likewise the Village has no right to grant an easement.

The situation is less clear if title to the north half of the forest lies in the collector but subject to the covenant to the Village for park purposes. The argument here would be that the Village is under a duty to use the land for park purposes and that the covenant granted to Crist is inconsistent with those purposes. There are numerous cases that have disapproved the use of park land for private purposes. See McGuillian 529.52. Moreover Mrs. Ealing probably has an enforceable right to have the land maintained for park purposes. See Ray v. Powell, 84 Tenn. 50, 25 N.W. 832 (1901) (dictum), which Mrs. Ealing has cited. Crist can, however, argue that his use of the land is de minimis, and in fact is consistent with park purposes because as a quid pro quo the users of the park can get to the point.

It may well be that Farnch had no authority to grant the covenant. This would depend upon the authority granted him by the council. If he was not given any authority to grant an covenant (or some broader grant of authority that could reasonably be construed to include the power to grant an covenant), then the contract with Crist is in no way binding on the Village. In general, the doctrine of apparent authority or estoppel cannot be invoked against a municipality in this sort of situation, because the actual authority of officers is a matter of public record. See City of Rogers Falls v. Whitlock, 247 Miss. 347, 77 N.W. 2d 194 (1956).

Conclusion. The north half of the land belongs either to (1) Mrs. Ealing in fee, free of any encumbrances; (2) the collector of the plot, free of any encumbrances; or (3) the collector of the plot, subject to an

consent to the Village for park purposes. There is insufficient authority to determine which of these three answers is the correct one, although, as argued above, number (3) seems to be the most reasonable solution.

No matter which answer is correct, it appears that whatever consent may have been granted to Grise should be withdrawn. This is obvious under answers (1) and (2) because then the Village has no claim whatsoever to the property.

Under number (3) the consent is improper either because it is inconsistent with park purposes or because French had no authority to grant it.

G.J.H.
12/9/65

DORSEY, MARQUART, WINDHORST, WEST & HALLADAY

JAMES E. DORSEY (1889-1959)

DONALD WEST
WALDO F. MARQUART
JOHN W. WINDHORST
HENRY HALLADAY
JULE M. HANNAFORD
ARTHUR B. WHITNEY
RUSSELL W. LINDQUIST
DAVID R. BRINK
HORACE HITCH
VIRGIL H. HILL
ROBERT V. TARBOX
DEFOREST SPENCER
ROBERT J. JOHNSON
M. B. HASSELOQUIST
PETER DORSEY
GEORGE P. FLANNERY
CURTIS L. ROY
ARTHUR E. WEISBERG
DUANE E. JOSEPH
FREDERICK E. LANGE

JOHN W. JONES
JAMES B. VESSEY
WILLIAM A. WHITLOCK
E. J. SCHWARTZBAUER
THOMAS M. BROWN
CORNELIUS D. MAHONEY
THOMAS S. ERICKSON
MICHAEL E. BRESS
PAUL G. ZERBY
RAYMOND A. REISTER
JOHN J. TAYLOR
BERNARD G. HEINZEN
JOHN S. HIBBS
ROBERT O. FLOTTEN
MORTON L. SHAPIRO
JAMES F. MEEKER
JOHN D. LEVINE
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MICHAEL A. OLSON
LARRY W. JOHNSON

THOMAS S. HAY
CURTIS D. FORSLUND
G. LARRY GRIFFITH
CRAIG A. BECK
DAVID L. MCCUSKEY
THOMAS O. MOE
JAMES H. OHAGAN
JOHN M. MASON
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LOREN R. KNOTT
JOHN W. LARSON
PHILLIP H. MARTIN
JOHN J. HELD
OF COUNSEL
DAVID E. BRONSON
HUGH H. BARBER
LELAND W. SCOTT
LEAVITT R. BARKER

LAW OFFICES

2400 FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINN. 55402

TELEPHONE: 332-3351

AREA CODE: 612

CABLE ADDRESS: DOROW

November 6, 1967

Mr. Warren C. Hyde, Manager
Village of Edina
4801 West 50th Street
Edina, Minnesota 55424

Re: Laguna Drive Vacation

Dear Mr. Hyde:

In our previous letter to you of January 31, 1967, regarding the dispute between Mr. R. T. Crist and Mrs. Loren Haling over Laguna Drive, we advised you that the vacation of the affected portion of the Drive on July 9, 1956, was void and of no effect because of an insufficient number of signatures on the petition for vacation.

Our attention has now been directed to the case of Minneapolis Excavating Co. v. City of East Grand Forks, 118 Minn. 467, 136 N.W. 1103 (1912), in which the Minnesota Supreme Court indicated that a street vacation based on a petition with insufficient signatures can be invalidated only by a direct appeal from the vacation proceedings, or by use of the extraordinary writ of certiorari, which again must be directed against the vacation proceedings. In other words, unless parties objecting to the vacation challenge it in court immediately, the vacation must thereafter be treated as valid for all purposes. Therefore, it is my opinion that the vacation of Laguna Drive is no longer open to challenge, even though it was originally accomplished in an invalid manner.

As you were previously advised in a memorandum based on the assumption that the vacation was valid, it is my opinion that the Village cannot grant an easement over the north half of the vacated street to Mr. Crist. It has been the law in this state for many years that land acquired by a municipality for public purposes cannot thereafter be used for private purposes. Duck v. City of Winona, 271 Minn. 145, 135 N.W.2d. 190 (1965); Kendrick v. City of St. Paul, 213 Minn. 283, 6 N.W. 2d 449 (1942); Larson v. Joesting, 95 Minn. 163, 104 N.W. 830 (1905). The granting of an easement to Mr. Crist over a portion of the vacated Drive would almost certainly be considered a private use within the scope of this rule.

COPY

Mr. Warren C. Hyde
Page 2

November 6, 1967

It has been contended on behalf of Mr. Crist that the Village has a certain obligation to attempt to comply with the agreement originally entered into by Mr. French on behalf of the Village. Furthermore, it has been pointed out that the easement over the north half of the vacated Drive can be dedicated to the use of the general public, even though it would primarily be used by the Crists.

Although these factors may present certain equities in favor of Mr. Crist's contention, I believe that it must be rejected. A comparable situation was presented in Lock v. El Paso Union Passenger Depot Co., 228 S.W. 917 (Tex. 1921), in which a municipality attempted to compromise a lawsuit with certain private parties by building a sidewalk across park property. Although the sidewalk was public, it was primarily of benefit to the private parties. The Texas Court held that under these circumstances a taxpayer having property across a street from the park could enjoin the construction of the sidewalk on the ground that the sidewalk would be inconsistent with park purposes.

The Village should therefore block off the vacated portion of the Drive, and should no longer permit it to be used as access to Mr. Crist's property.

Very truly yours,

William A. Whitlock,
Village Attorney

WAW:mc

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IV. TAX EXEMPT PROPERTY

Mr. Rosland pointed out to the Park Board some lots that have gone tax delinquent in the Village. Of the lots that were pointed out, it was felt that only two locations would be of any interest. The first being Lot 8, Block 7, Brookview Heights 2nd Addition. This lot is adjacent to the east of our present park property referred to as the 70th Street strip.

The second location are Lots 20 and 21, Block 7, Brookview Heights 2nd Addition and Lots 11, 12, 13, and 14, Block 3, Brookview Heights 3rd Addition. These lots are located west and adjacent to our 70th Street strip.

After some discussion, Mr. Giebink moved that we recommend to the Council the acquisition of Lot 8, Block 7, Brookview Heights 2nd Addition. Mr. Lewis seconded and the motion carried.

After further discussion the question of the remaining lots was tabled until an estimate of the back taxes and special assessments could be made.

After an investigation of the special assessments, we were advised that the Village would not have to assume any special assessments or back taxes. A telephone poll was made on March 12, 1964 of the members present and it was their recommendation that the Park Board acquire the subsequent tax delinquent lands: Lots 20 and 21, Block 7, Brookview Heights 2nd Addition and Lots 11, 12, 13, and 14, Block 3, Brookview Heights 3rd Addition.

Meeting adjourned at 8:45 P.M.

Respectfully submitted,

Ken Rosland, Sec'y
Edina Park Board

KER:skv



N O R T H E R N S T A T E S P O W E R C O M P A N Y

September 12, 1967

Florence B. Hallberg, Village Clerk
Village of Edina
4801 West 50th Street
Edina, Minnesota - 55424

Dear Mrs. Hallberg:

This is to acknowledge receipt of a notice of hearing on the proposed vacation of a portion of Laguna Drive, which portion is described as follows:

That portion of Laguna Drive lying
between Woodale Avenue and the East
Line of Creston Hills Addition.

We have indicated on the attached sketch the location of our facilities in this area and wish to advise that we have no objection to this vacation provided we are granted a permanent easement for the retention of our facilities or are reimbursed for rerouting them.

Thank you for your consideration in this matter.

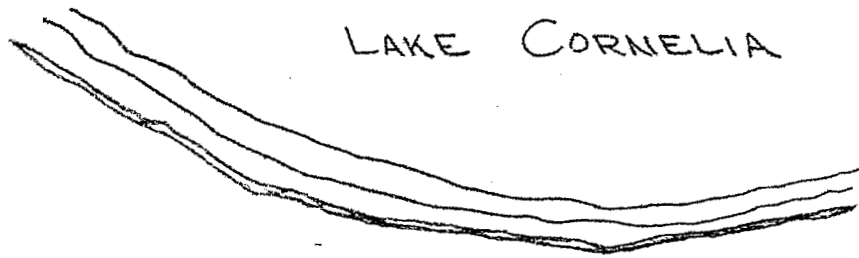
Yours truly,

E.P. Robertson
Distribution Superintendent
Minneapolis Division

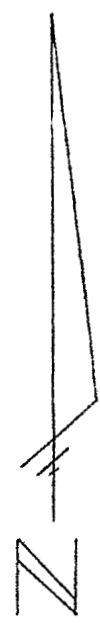
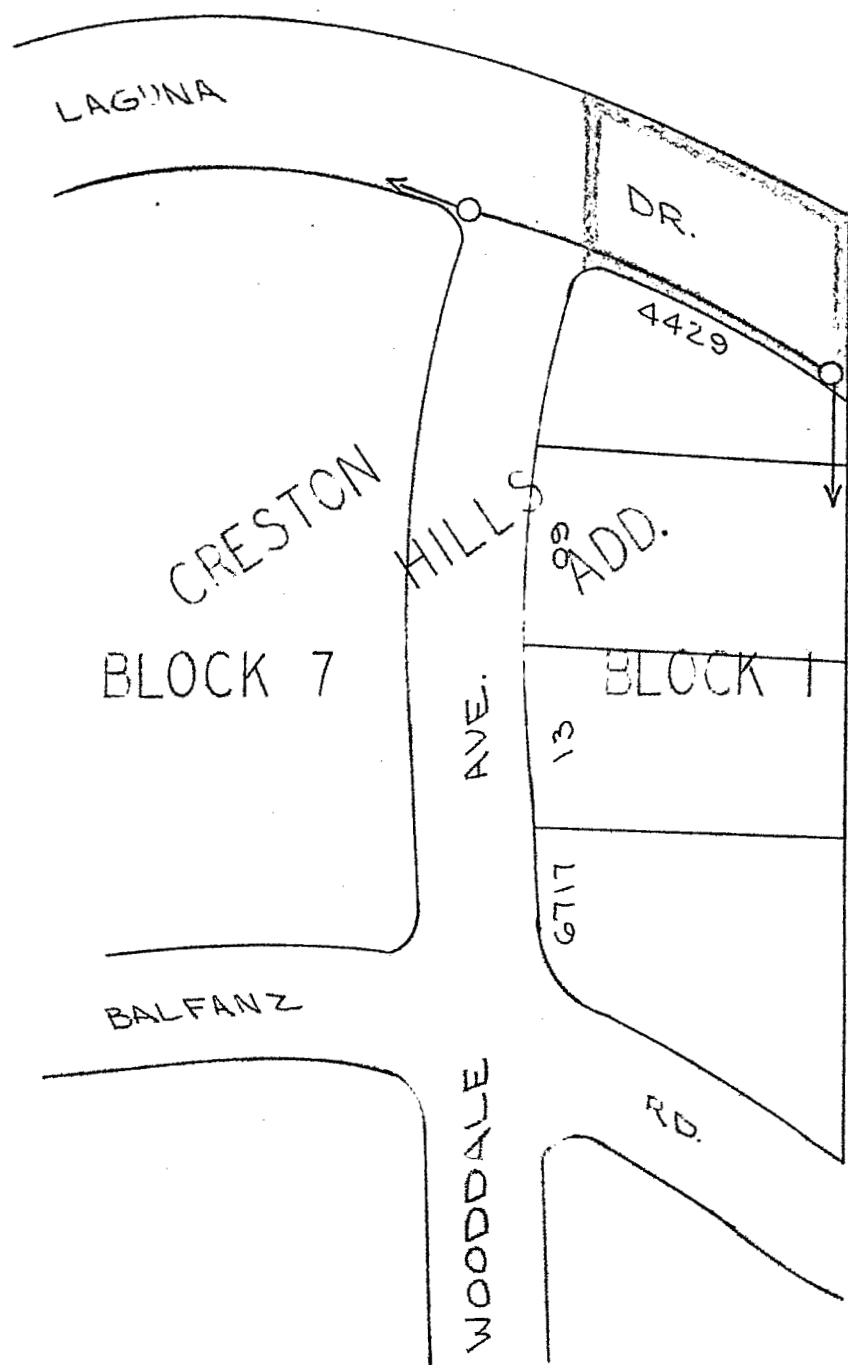
By George C. Lewis
George C. Lewis
Senior Right of Way Agent

EPR/GCL:kk

9/20/67
(Copy to Geo)



LAKE CORNELIA



S 1/2 SEC. 30 T28 R24 VILLAGE OF EDINA

LEGEND					
	POLES NSP TEL	WIRE	ANCHOR	OVERHEAD GUY	STREET LIGHT
NEW	○ ⊗	—	→	↗	✱
EXISTING	○ ⊗	—	→	↗	✱
TO BE REMOVED	○ ⊗	✱✱	✱	↗	✱✱

NORTHERN STATES POWER CO. ELECTRIC DISTRIBUTION DEPARTMENT MINNEAPOLIS DIVISION	
TITLE <u>PROPOSED STREET VACATION</u> <u>VILLAGE OF EDINA</u>	
SCALE <u>1" = 100'</u>	DR. BY <u>B.B.</u>
DATE <u>9-13-67</u>	CHK. BY <u>DAL</u>
APPROVED BY <u>E.P. Robertson - GL</u> DISTR. SUPT.	
DRAWING NO. <u>A-0450</u>	

MINNEAPOLIS GAS COMPANY

MINNEAPOLIS, MINNESOTA 55402

August 30, 1967

Mrs Florence B Hallberg
Village Clerk
Village of Edina
4801 West 50 Street
Edina, Minnesota 55424

Dear Mrs Hallberg

Thank you for the notice of proposed street vacation of part of Doran Drive and Laguna Drive.

We have no installation in Laguna Drive here and do not object to this vacation.

In Doran Drive there is a 1½ inch steel main extending into the vacation area about 8 feet, as shown on the enclosed print, but since this main serves only the adjoining property, we do not object to this vacation.

Sincerely

Warner P. Blake
Warner P Blake
Operations Planning Engineer

WPB:jm
enc

NSP wants easement
Mr. Lewis - NSP.
330-6256
Judson & Emma
Krause owner of L.B.I.
Haling wants vacation
Vill ✓ 840' 80' NW

DORSEY, MARQUART, WINDHORST, WEST & HALLADAY

JAMES E. DORSEY (1889-1959)

DONALD WEST
WALDO F. MARQUART
JOHN W. WINDHORST
HENRY HALLADAY
JULE M. HANNAFORD
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JOHN J. HELD

OF COUNSEL
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LAW OFFICES

2400 FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINN. 55402

TELEPHONE: 332-3351

AREA CODE: 612

CABLE ADDRESS: DOROW

August 24, 1967

Mrs. Florence B. Hallberg
Village Clerk
Village of Edina
4801 West Fiftieth Street
Edina, Minnesota 55424

Dear Mrs. Hallberg:

Tom Erickson is on vacation and will not be back until September 5. In his absence I have been trying to take care of the various matters which he normally handles. As a result, I have reviewed the descriptions which you sent Tom regarding the Laguna Drive vacation and the Bergerud division.

The Laguna Drive description which you sent does not specifically locate the West line. Accordingly, I suggest that you use the following description:

All that part of Laguna Drive lying Westerly of the East line of Creston Hills Addition and lying Easterly of a line drawn parallel with and 30 feet Easterly of the centerline of Woodale Avenue extended Northerly to the South line of Laguna Drive.

The description for the Bergerud property, prepared by Cardarelle & Associates, Inc., seems to me to be somewhat inaccurate, in that it refers to the South 120 feet as measured along the East and West lines. From the dimensions which appear on the survey, the East and West lines do not run at right angles to the South line of the lot. Accordingly, there are not exactly 120 feet. In lieu of the surveyor's description, I suggest that you use the following description:

All that part of Lot 4, Auditor's Subdivision No. 325 lying Southerly of a line drawn from a point on the East line of said Lot 4, distant 120 feet Northerly, as measured along said East line, from the Southeast corner of said lot, to a point on the West line of said lot, distant 120 feet Northerly, as measured along said West line, from the Southwest corner of said lot, according to the recorded plat thereof.

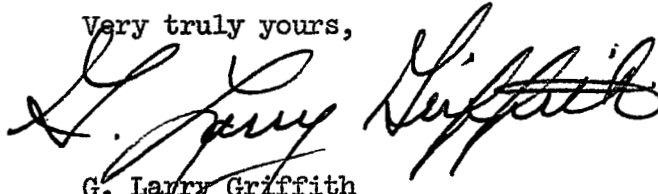
Mrs. Florence B. Hallberg
Page 2

August 24, 1967

Both of the descriptions which I have prepared are somewhat more cumbersome than the two which you forwarded to me; however, I believe they are more accurate.

If you have any questions, please do not hesitate to give me a call.

Very truly yours,



G. Larry Griffith

GLG:lc

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS.
VILLAGE OF EDINA)

CERTIFICATE OF MAILING
NOTICE

I, the undersigned, being the duly qualified acting Village Clerk of the Village of Edina, Minnesota, hereby certify that on the following date August 25, 1967, acting on behalf of said Village, I deposited in the United States mail copies of the attached

NOTICE OF PUBLIC HEARING OF STREET VACATION
(Exhibit A), enclosed in sealed envelopes, with postage thereon duly prepaid, addressed to the persons at the addresses on claim on the mailing list (Exhibit B) attached to the original hereto, which list is on file in my office, said persons being those appearing on the records of the County Auditor as owners of the property listed opposite their respective names as of a date 10 days prior to the date of the hearing, and that I also sent said notice to the following corporations at the indicated addresses whose property is exempt from taxation and is therefore not carried on the records of said County Auditor:

<u>Name</u>	<u>Address</u>

WITNESS my hand and the seal of said Village this 25th day of August 19 67

Glenn B. Hallberg
Edina Village Clerk

VILLAGE OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424

NOTICE OF PUBLIC HEARING ON PROPOSED
STREET VACATIONS

THE EDINA VILLAGE COUNCIL will meet at the Edina Village Hall, 4801 West 50th Street, Edina, on Tuesday, September 5, 1967, at 7:00 p.m. to consider the proposed street vacations described as follows:

1. That portion of Doran Drive lying Northerly and Northwesterly of a circle with a radius of forty-five feet (45') and a center point located forty-five feet (45') East of the West line of Doran Drive and seventy feet (70') South of the Easterly extension of the North line of Lot 1, Block 1, Bach's Addition
2. That portion of Laguna Drive lying between Wooddale Avenue and the East Line of Creston Hills Addition,

All objections and recommendations will be heard at said Meeting.

BY ORDER OF THE VILLAGE COUNCIL.

FLORENCE B. HALLBERG
Village Clerk

Laguna Dr. St. Vacation

18 B1 Richard T. Crist 6716 Point Drive
A Ball 3

~~Panel 110~~ Mrs. L. W. Haling - 4429 Laguna Dr.
L1 + 1116' of

L2 Bl
Creston Hill Arthur E. Sloan - 6816 Wooddale

H. S. P.

H. W. Bell

Imps. Gas Co.

(Official Publication)

VILLAGE OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424

NOTICE OF PUBLIC HEARING ON PROPOSED
STREET VACATIONS

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2. That portion of Laguna Drive lying between Wooddale Avenue and the East Line of Creston Hills Addition,

All objections and recommendations will be heard at said Meeting.

BY ORDER OF THE VILLAGE COUNCIL.

FLORENCE B. HALLBERG
Village Clerk

Please publish in the Edina Courier August 24, 1967 and 31, 1967
Please send us two Affidavits of Publication.
Please send us ten clippings.

C
O
P
Y

August 22, 1967

Mr. Thomas S. Erickson
2400 First National Bank Bldg.
Minneapolis, Minnesota 55402

Dear Tom:

At the Council Meeting last night, September 5 was set as Hearing Date for vacation of a portion of Laguna Drive described below. This street was vacated in July, 1956; however, Mr. Whitlock has indicated that this vacation was invalid in his letter to Mr. Hyde dated January 31, 1967.

I am enclosing a copy of the "Notice of Public Hearing" as well as the plat which shows the area to be vacated indicated in red.

Will you please advise me if this legal discription is satisfactory.

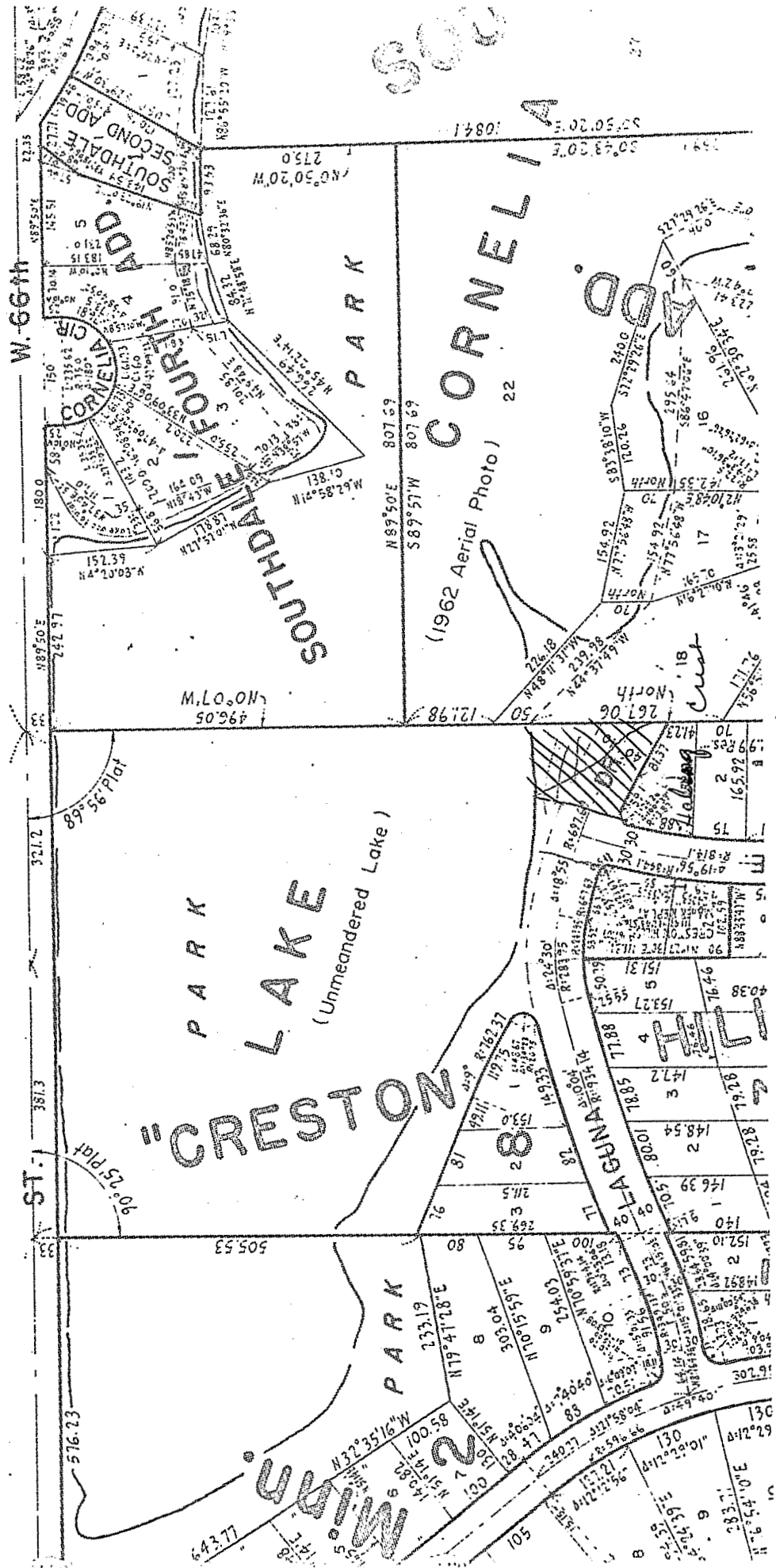
Yours very truly,

Village Clerk

fbh
enclosures-2

S 1/2 SEC. 30, T.28, R.24

90°07'15" Res.
89°57'45"



IV. TAX EXEMPT PROPERTY

Mr. Rosland pointed out to the Park Board some lots that have gone tax delinquent in the Village. Of the lots that were pointed out, it was felt that only two locations would be of any interest. The first being Lot 8, Block 7, Brookview Heights 2nd Addition. This lot is adjacent to the east of our present park property referred to as the 70th Street strip.

The second location are Lots 20 and 21, Block 7, Brookview Heights 2nd Addition and Lots 11, 12, 13, and 14, Block 3, Brookview Heights 3rd Addition. These lots are located west and adjacent to our 70th Street strip.

After some discussion, Mr. Giebink moved that we recommend to the Council the acquisition of Lot 8, Block 7, Brookview Heights 2nd Addition. Mr. Lewis seconded and the motion carried.

After further discussion the question of the remaining lots was tabled until an estimate of the back taxes and special assessments could be made.

After an investigation of the special assessments, we were advised that the Village would not have to assume any special assessments or back taxes. A telephone poll was made on March 12, 1964 of the members present and it was their recommendation that the Park Board acquire the subsequent tax delinquent lands: Lots 20 and 21, Block 7, Brookview Heights 2nd Addition and Lots 11, 12, 13, and 14, Block 3, Brookview Heights 3rd Addition.

Meeting adjourned at 8:45 P.M.

Respectfully submitted,

Ken Rosland, Sec'y
Edina Park Board

KER:skv

Do whatever needed to assure
use of the point for recreational
purposes.

BY ORDER OF THE VILLAGE
COUNCIL.
FLORENCE B. HALLBERG
Village Clerk
(Aug. 24, 1967)—C-2A-10C

AFFIDAVIT OF PUBLICATION

Edina-Morningside Courier

12 Suburban Square

Hopkins, Minnesota

State of Minnesota }
County of Hennepin } SS.

W. JOHN BERTRAM, being duly sworn, on oath says he is and during all the times herein stated has been the general manager and printer of the newspaper known as The Edina-Morningside Courier and has full knowledge of the facts herein stated as follows: (1) Said newspaper is printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 900 square inches. (2) Said newspaper is a weekly and is distributed at least once each week. (3) Said newspaper has 50% of its news columns devoted to news of local interest to the community which it purports to serve and does not wholly duplicate any other publication and is not made up entirely of patents, plate matter and advertisements. (4) Said newspaper is circulated in and near the municipality which it purports to serve, has at least 500 copies regularly delivered to paying subscribers, has an average of at least 75% of its total circulation currently paid or no more than three months in arrears and has entry as second-class matter in its local post-office. (5) Said newspaper purports to serve the Village of Edina in the County of Hennepin and it has its known office of issue in the City of Hopkins in said county, established and open during its regular business hours for the gathering of news, sale of advertisements and sale of subscriptions and maintained by the managing officer or persons in its employ and subject to his direction and control during all such regular business hours and devoted exclusively during such regular business hours to the business of the newspaper and business related thereto. (6) Said newspaper files a copy of each issue immediately with the State Historical Society. (7) Said newspaper has complied with all the foregoing conditions for at least two years preceding the day or dates of publication mentioned below. (8) Said newspaper has filed with the Secretary of State of Minnesota prior to January 1, 1966 and each January 1 thereafter an affidavit in the form prescribed by the Secretary of State and signed by the publisher of said newspaper and sworn to before a notary public stating that the newspaper is a legal newspaper.

He further states on oath that the printed NOTICE OF PUBLIC HEARING hereto attached as a part hereof was cut from the columns of said newspaper, and was printed

and published therein in the English language, once each week, for 1 successive weeks;

Thurs 24 Aug 67
that it was first so published on the day of 19..

and was thereafter printed and published on every to and including

the day of 19 and that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to wit:
abcdefghijklmnopqrstuvwxyz

W. John Bertram

Subscribed and sworn to before me this 24 day of Aug 19 67

(Notarial Seal)

Alice J. Nelson
Alice J. Nelson, Notary Public, Hennepin County, Minn.

My Commission Expires December 26, 1973

(Official Publication)
VILLAGE OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424
NOTICE OF PUBLIC
HEARING ON PROPOSED
STREET VACATIONS
THE EDINA VILLAGE COUNCIL will meet at the Edina Village Hall, 4801 West 50th Street, Edina, on Tuesday, September 5, 1967, at 7:00 p.m. to consider the proposed street vacations described as follows:
1. That portion of Doran Drive lying Northerly and Northwesterly of a circle with a radius of forty-five feet (45') and a center point located forty-five feet (45') East of the West line of Doran Drive and seventy feet (70') South of the Easterly extension of the North line of Lot 1, Block 1, Bach's Addition.
2. That portion of Laguna Drive lying between Wooddale Avenue and the East Line of Creston Hills Addition.
All objections and recommendations will be heard at said Meeting.
BY ORDER OF THE VILLAGE COUNCIL
FLORENCE B. HALLBERG
Village Clerk
(Aug. 24, 1967)—C-2A-10C

AFFIDAVIT OF PUBLICATION

Edina-Morningside Courier

12 Suburban Square

Hopkins, Minnesota

State of Minnesota }
County of Hennepin } SS.

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He further states on oath that the printed hereto attached as a part hereof was cut from the columns of said newspaper, and was printed

and published therein in the English language, once each week, for 1 successive weeks;

that it was first so published on Thurs the 24 day of Aug 1967

and was thereafter printed and published on every to and including

the day of 19 and that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to wit:
abcdefghijklmnopqrstuvwxyz

W. John Bertram

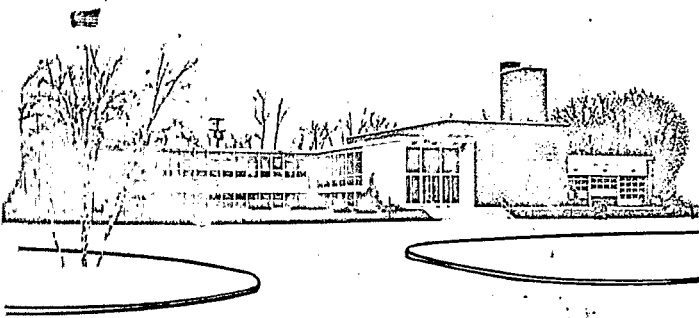
Subscribed and sworn to before me this 24 day of Aug 19 67

(Notarial Seal)

Alice J. Nelson
Alice J. Nelson, Notary Public, Hennepin County, Minn.

My Commission Expires December 26, 1973

(Official Publication)
VILLAGE OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424
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2. That portion of Laguna Drive lying between Wooddale Avenue and the East Line of Creston Hills Addition.
All objections and recommendations will be heard at said Meeting.
BY ORDER OF THE VILLAGE COUNCIL
FLORENCE B. HALLBERG
Village Clerk
(Aug. 24, 1967)—C-2A-10C



Village of Edina

4801 WEST FIFTIETH STREET • EDINA 24, MINNESOTA

WALNUT 7-8861

August 30, 1961

Mr. R. T. Crist
6716 Point Drive
Edina 24, Minnesota

Dear Mr. Crist:

Here below I have tried to put in as few words as possible my understanding of the basic points of our discussion and the agreement we reached.

1. The portion of Laguna Drive from Wooddale Avenue east remains vacated as per action by the Village Council dated July 9, 1956.
2. Under this vacation action the south one-half of the vacated portion of Laguna Drive reverted to Mr. Haling, and the north one-half to Village ownership. The Halings wish to claim the portion going to them, and it is their intention to make it an integral part of their front yard.
3. Our general aim for the area which has reverted to Village ownership and has become an integral part of the park is to keep it park-like. However, your request for automobile access across park property to get to the rear of your lot we are willing to grant providing you are willing to grant to the Village easement for pedestrian and park service vehicle traffic over that portion of your lot to get out on the point of land which extends on to the lake.

Your access will start at-and-across Haling's turn-off from Wooddale (Mr. Haling has agreed to this) and thence over park property to your west lot line. It is our intention to keep this path of traffic open to you in fair weather conditions.

I hope this states accurately what we agreed to and would appreciate your letter confirming same.

Sincerely yours,

Clifton E. French
Director Parks and Recreation

CEF:mem

DORSEY, OWEN, MARQUART, WINDHORST & WEST
FIRST NATIONAL BANK BUILDING
MINNEAPOLIS

November 22, 1966

Mr. Fremont C. Fletcher
Thompson, Hanson, Fletcher & McKay
600 Midland Bank Building
Minneapolis, Minnesota 55401

Mr. George Maloney
Maloney, Carroll and Olson
1510 First National Bank Building
Minneapolis, Minnesota 55402

Re: Vacation of Laguna Drive

Gentlemen:

I have been advised by the Village of Edina that the dispute between Mr. Crist and Mrs. Maling arising out of the vacation of part of Laguna Drive has not yet been resolved. The Village, however, would like to see this matter resolved if at all possible and to that end I would like to propose that each of you attend a meeting with the Park Director, Ken Rosland, and me on Thursday, December 1st, at 9:00 a.m. in our offices. Would you please let me know if this time and place is agreeable and if not what other time and place would be satisfactory for you.

Very truly yours,



William A. Whitlock

WAW:mc

cc: Mr. Kenneth Rosland
Mr. Warren C. Hyde ✓

C
O
P
Y